

BUREAU OF NATUROPATHIC MEDICINE

INITIAL STATEMENT OF REASONS

Hearing Date: February 23, 2005

Subject Matter of Proposed Regulations:

Bureau of Naturopathic Medicine

Section(s) Affected:

Add Division 40 of Title 16 (commencing with Section 4200) of the California Code of Regulations.

Specific Purpose of each adoption, amendment, or repeal:

The purpose for the adoption of these regulations is to implement the Naturopathic Doctor's Act and to establish the licensing role and responsibilities of the newly established Bureau of Naturopathic Medicine as enacted by Senate Bill (SB) 907 (Chapter 485, Statutes of 2003). The adoptions of the regulations will allow the Bureau to commence the licensure requirements for those individuals who desire to become naturopathic doctors in California.

This regulatory action adds Division 40 to Title 16 of the California Code of Regulations. Specifically, this regulatory action adds the following sections:

Article 1. General Provisions

1. Adds Section 4200.

This section establishes the purpose of these regulations – to implement and make specific the statutory provisions of the Naturopathic Doctors Act.

2. Adds Section 4202.

This section specifies that the principal office of the Bureau is located in Sacramento, California.

3. Adds Section 4204.

This section requires persons issued a certificate or license by the Bureau to:

1) notify the Bureau of his or her current address; and 2) notify the Bureau within fourteen (14) days of any changes of address.

4. Adds Section 4206.

This section establishes the regulatory definition of various terms.

5. Adds Section 4208.

This section establishes the conditions under which the Bureau will disclose complaint information.

Article 2. Applications

6. Adds Section 4210.

This section specifies that completed applications for licensure or certification are to be filed at the Bureau's principal office in Sacramento.

7. Adds Section 4212.

This section specifies the contents of an application for licensure as a naturopathic doctor and also specifies that the application fee is not refundable.

8. Adds Section 4214.

This section specifies the contents of an application for a certificate of registration and the duration of said certificate, and the renewal process for the certificate.

9. Adds Section 4216.

This section specifies that the Bureau shall notify applicants as to the completeness of their application within one hundred (100) working days of receipt. This section also specifies that within one hundred (100) working days of the filing of a complete application, the Bureau shall notify applicants whether the application has been approved or denied.

10. Adds Section 4218.

This section specifies under which conditions applications filed with the Bureau may be considered abandoned and that upon abandonment, the application fee is forfeited to the Bureau.

Article 3. Examinations

11. Adds Section 4220.

This section establishes the Naturopathic Physicians Licensing Examination (NPLEX) as the licensing examination.

Article 4. Licenses

12. Adds Section 4222.

This section specifies that the duration of a license is two years from the last day of the second birth month and establishes the requirements for license renewal.

13. Adds Section 4224.

This section specifies that a naturopathic doctor's license must be displayed under glass or other transparent material in an area frequented by patients.

14. Adds Section 4226.

This section specifies the requirements for a licensee to renew an expired license or certificate and the fees required for renewal.

15. Adds Section 4228.

This section specifies the requirements for a license to be placed on inactive status.

Article 5. Schools

16. Adds Section 4230.

This section addresses approval of naturopathic medical schools. Naturopathic medical schools that have been accredited by the California Naturopathic Medical Education are deemed approved by the Bureau. This section also requires the Bureau to maintain a list of approved schools. Despite a diligent and thorough effort, the Bureau was unable to ascertain the existence of a federally recognized accrediting body for the naturopathic medical profession that was equivalent to the Council on Naturopathic Medical Education.

Article 6. Practice of Naturopathic Medicine

17. Adds Section 4232.

This section specifies the requirements for giving a patient informed consent.

18. Adds Section 4234.

This section specifies that scope of the medical services that a licensed naturopathic doctor may provide or perform.

19. Adds Section 4236.

This section establishes the requirements for a licensed naturopathic doctor to prescribe drugs. This section also specifies the requirements for a drug order issued by a naturopathic doctor.

Article 7. Fees

20. Adds Section 4240.

This section establishes the fees that are required for applications, initial licensure, renewal of a current or expired license, duplicate licenses and the fee for processing fingerprint cards.

Article 8. Citations

21. Adds Section 4242.

This section establishes the authority to issue citations and timeframes for purging a citation. Also specifies that citations will be disclosed to the public upon request.

22. Adds Section 4244.

This section specifies the format of a citation and the process for issuing a citation.

23. Adds Section 4246.

This section establishes minimum and maximum amounts for the administrative fines contained in a citation.

24. Adds Section 4248.

This section specifies the factors that the Chief of the Bureau shall consider in assessing the amount of an administrative fine.

25. Adds Section 4250.

This section establishes the process for contesting a citation and establishes that a person issued a citation that has had the citation modified in an informal conference cannot request another informal conference to contest the same citation.

26. Adds Section 4252.

This section establishes the timeframes for complying with an order of abatement and specifies the consequences of failing to honor those timeframes.

27. Adds Section 4254.

This section establishes the authority for the Bureau to issue citations for unlicensed activity and fine amounts of such citations.

Article 9. Enforcement

28. Adds Section 4256.

This section defines the substantial relationship criteria for the Bureau to use when denying, suspending, or revoking a license based upon an act or crime committed by an applicant or licensee.

29. Adds Section 4258.

This section establishes the criteria that the Bureau must follow when considering the denial of a license or when evaluating the rehabilitation of the applicant.

30. Adds Section 4260.

This section defines unprofessional conduct for which the Bureau may take disciplinary action against a licensee.

Article 10. Advertising

31. Adds Section 4262.

This section authorizes licensees to advertise naturopathic medical services with the specified restrictions.

Article 11. Naturopathic Corporations

32. Adds Section 4264.

This section establishes that the authority of the laws relating to naturopathic corporations does not alter the responsibilities of a naturopathic doctor to his or her patients.

33. Adds Section 4266.

This section sets standards for naturopathic corporation insurance policies and establishes the liability of the shareholders of a naturopathic corporation under specified conditions.

35. Adds Section 4268.

This section establishes the requirements of ownership and transfer of ownership of the shares of a naturopathic corporation.

Factual Basis/Rationale

Factual basis for determination that each proposed change is necessary:

Existing law establishes boards and bureaus within the Department of Consumer Affairs that are responsible for licensing and regulating persons practicing various healing arts disciplines. SB 907 establishes, until July 1, 2009, the Naturopathic Doctors Act, to be administered by the Bureau of Naturopathic Medicine created within the Department of Consumer Affairs. The Bureau is responsible for statewide operations and enforcement of various standards for the licensure and regulation of naturopathic medicine. The adoption of these regulations will further define the statewide licensing, education, enforcement, and scope of practice requirements under the statutory provisions of SB 907.

Underlying Data

Technical, theoretical or empirical studies or reports relied upon (if any):

- Holly J. Hough, PhD; Catherine Dower, JD; and Edward H. O'Neil, PhD. *Profile of a Profession: Naturopathic Practice*. Center for Health Professions, University of California, San Francisco. September 2001.
- The California Association of Naturopathic Physicians. *Sunrise Document California State Legislature: Proposal for the Naturopathic Practice Act*. 1993-1994 Legislative Session.

Business Impact

The Bureau has determined that the proposed regulatory action would have no significant adverse economic impact on California Business enterprises and individuals, including the ability of California businesses to compete with businesses in other states. Adoption of these regulations will authorize the Bureau to license individuals as naturopathic doctors, which will create new jobs in the healthcare industry and will allow consumers to expand their health care options. Additionally, if new licensees choose to establish offices, then office support and medical assistant jobs may also be created.

Specific Technologies or Equipment

This regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives

The Department has determined that no reasonable alternative considered by the Department or that has otherwise been identified or brought to the attention of the Department would be more effective in carrying out the purpose for which these regulations are being implemented or would be as effective and less burdensome to affected private persons than these proposed regulations. Furthermore, Section 3622 of the Business and Professions Code, requires the Bureau of Naturopathic Medicine to adopt regulations in order to carry out the purposes of the legislative mandate.